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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/642,871 08/18/2003		Holly J. Espenschied	3674		
36447	7590 08/04/2005		EXAMINER		
	SPENSCHIED SHIRE DRIVE		CHEN, JOSE V		
HILLIARD,	· · · · · · · · · · · · · · · · · · ·		ART UNIT	PAPER NUMBER	
			3637		
			DATE MAILED: 08/04/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. 10/642,871		:		•			
Examiner José V. Chen José V.			Application No.	Applicant(s)			
José V. Chen 3037			10/642,871	ESPENSCHIED,	HOLLY J.		
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be audiable under the provision of 37 CPR 1.13(a). In no event, however, may a raphy be limely flied after SX (6) MCNTHS from the mailing date of this communication. I NO parties for reply is specified above, the maximus taking yields with statutory minimum of thirty (30) days will be considered timely. I NO parties for reply is specified above, the maximus taking yields will apply and will english (30) (A) (MCNTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will, by shake, cause the application to become ABANDONED (35 U.S. £ 133). Any reply secured by the 60 fiber date than these another after the mailing date of this communication. Failure to reply within the set or extended period for reply will, by shake, cause the application to become ABANDONED (35 U.S. £ 133). Any reply secured by the 60 fiber date than the senders after the mailing date of this communication. Any reply secured by the 60 fiber date than the senders after the mailing date of this communication. Any reply secured by the 60 fiber date than the senders after the mailing date of this communication. Status 1) □ Responsive to communication(s) filled on 18 August 2003. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-10 is/are pending in the application. 4) □ Claim(s) 1-10 is/are pending in the application. 4) □ Claim(s) 1-10 is/are allowed. 5) □ Claim(s) 1-10 is/are allowed. 6) □ Claim(s) 1-10 is/are allowed. 6) □ Claim(s) 1-10 is/are allowed. 7) □ Claim(s) 1-10	Office Action S	ummary	Examiner	Art Unit			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Educations of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after 58 (b) (ENKTYS from the mailing date of the maining table and the five (Six (Six Month)) and the state of the Control of the provision of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after 58 (b) (ENKTYS from the mailing date of this communication. Failure to provide by the Diffice black the maininum statutory period will apply and will expire 51X (5) MONTHS from the mailing date of this communication. Failure to provide by the Office black than the months after the mailing date of this communication, even if timely filled, may reduce any sources paid that on the Office black than the months after the mailing date of this communication, even if timely filled, may reduce any sources paid that any advance of the communication of the provided by the Office black than the months after the mailing date of this communication, even if timely filled, may reduce any sources paid that the provided by the Office black than the months after the mailing date of this communication, even if timely filled, may reduce any sources paid the office and the provided by the Office black than the office and the office	·				·		
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 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 	11)☐ The oath or declaration	is objected to by the Ex	aminer. Note the atta	ached Office Action or form P	TO-152.		
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 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 	a) ☐ All b) ☐ Some * c)	None of:					
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 		•	4				
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.		•			1.01		
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U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04)

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date _

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date.

5) Notice of Informal Patent Application (PTO-152)

6) Other: __

Application/Control Number: 10/642,871

Art Unit: 3637

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al in view of Manning. The patent to Roberts teaches structure substantially as claimed including a platform, rounded edges, the bottom and top functionally interchangeable, cavities on one side, substantially flat on the other side, the only difference being that the reference does not specifically state that the structure is made from a blow molded plastic and the structure does not include a drain. However, the patent to Manning teaches the use of a plastic structure including a drainage hole in the surface. It would have been obvious at the time of the invention to modify the structure of Roberts et al to include a drainage hole, as taught by Manning since such structures are conventional structures used in the same intended purpose, thereby providing

Application/Control Number: 10/642,871

Art Unit: 3637

structure as claimed. It is noted that the hole of Manning inherently provides for a means to drain. The particular color would have been a matter of desirability and would have been obvious and well within the level of ordinary skill in the art. The use of blow molded structure in the formation of particular plastic structures, the use of dowels as an anchor is well known in the art and applicant is given judicial notice of such.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Buck et al, Kelso, MacLeod, Engler, Jr., Vance et al, Eschbacher et al, Mahler, Everitt, Kellough, Lundstrom teach structure similar to aspplicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 10/642,871

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dosé V. Chen C Primary Examiner Art Unit 3637

Chen/jvc 08-02-05